

रजिस्टर्ड नं० पी० ४६१



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, ४ अप्रैल, १९७०/१४ चैत्र, १८६२

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 18th February, 1970

No. 6-46/68-LR.—The Himachal Pradesh Police (Protection of Railways) Bill, 1969 (Bill No. 8 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2)

of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 2 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 2 of 1970

THE HIMACHAL PRADESH POLICE (PROTECTION OF RAILWAYS) ACT, 1969

AN

ACT

to provide enhanced punishments for certain derelictions of duty by members of the police forces.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Himachal Pradesh Police (Protection of Railways) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

Enhanced
punishments
of derelic-
tions of duty
by police in
certain cir-
cumstances.

2. It shall be an offence punishable under this Act for any member of a police force whose duty for the time being is to protect from acts of violence any passenger or goods being conveyed upon any railway (as defined in the Indian Railways Act, 1890), to fail in the proper performance of that duty, and notwithstanding anything to the contrary contained in any law or order for the time being in force regulating discipline in the police force of which he is a member but without prejudice to any other punishment to which he may be liable thereunder, such member of a police force shall be liable, on conviction for such offence by a competent criminal court, to be punished with rigorous imprisonment for a term which may extend to ten years or, if on the occasion of this offence any loss of human life occurs, with death or imprisonment for life or rigorous imprisonment for a period which may extend to ten years.

9 of 1890

Repeal and
savings.

3. The East Punjab Police (Protection of Railways) Act, 1947, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, is hereby repealed:

12 of 1947

31 of 1966

Provided that anything done or any action taken or any proceedings commenced or continued under the said Act shall be deemed to have been done, taken, commenced or continued under the corresponding provision of this Act.

Simla-2, the 18th February, 1970

No. 6-9/69-ER.—The Usurious Loans (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 10 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 3 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 3 of 1970

**THE USURIOUS LOANS (HIMACHAL PRADESH AMENDMENT)
ACT, 1969**

AN
ACT

to amend the Usurious Loans Act, 1918 (Central Act No. 10 of 1918) in its application to the Union territory of Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Usurious Loans (Himachal Pradesh Amendment) Act, 1969.

Short title
and extent.

(2) It shall extend to the whole of Himachal Pradesh.

10 of 1918 2. In clause (a) of sub-section (3) of section 2 of the Usurious Loans Act, 1918 in its application to Himachal Pradesh, the following words shall be inserted between the words "loan made" and the words "after the commencement of this Act", namely,—

Amendment
of section 2.

"whether before or".

4 of 1948 3. The Usurious Loans (East Punjab Amendment) Act, 1948, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Repeal and
savings.

31 of 1966

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

Simla-2, the 18th February, 1970

No. 6-8/69-LR.—The Provincial Small Cause Courts (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 21 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 4 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 4 of 1970

**THE PROVINCIAL SMALL CAUSE COURTS (HIMACHAL
PRADESH AMENDMENT) ACT, 1969**

AN

ACT

to amend the Provincial Small Cause Courts Act, 1837 (Central Act 9 of 1887) in its application to the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Provincial Small Cause Courts (Himachal Pradesh Amendment) Act, 1969.

(2) It shall extend to the whole of Himachal Pradesh.

Amendment
of section
15 of Central
Act.
(9 of 1887)

2. In section 15 of the Provincial Small Cause Courts Act, 1837 (Central Act No. 9 of 1887) in its application to the Union territory of Himachal Pradesh:—

(1) In sub-section (2), for the words “five hundred”, the words “two thousand” shall be substituted; and

(2) sub-section (3) shall be omitted.

Repeal and
savings.

3. The Provincial Small Cause Courts (Punjab Amendment) Act, 1966 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

3 of 1966,
31 of 1966.

Simla-2, the 18th February, 1970

No. 6-40/69-LR.—The Himachal Pradesh (Extension of Laws) Bill, 1969 (Bill No. 26 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 5 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Simla-2, the 18th February, 1970

No. 6-8/69-LR.—The Provincial Small Cause Courts (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 21 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 4 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 4 of 1970

**THE PROVINCIAL SMALL CAUSE COURTS (HIMACHAL
PRADESH AMENDMENT) ACT, 1969**

AN

ACT

to amend the Provincial Small Cause Courts Act, 1837 (Central Act 9 of 1887) in its application to the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Provincial Small Cause Courts (Himachal Pradesh Amendment) Act, 1969.

(2) It shall extend to the whole of Himachal Pradesh.

Amendment
of section
15 of Central
Act,
(9 of 1887)

2. In section 15 of the Provincial Small Cause Courts Act, 1837 (Central Act No. 9 of 1887) in its application to the Union territory of Himachal Pradesh:—

(1) In sub-section (2), for the words “five hundred”, the words “two thousand” shall be substituted; and

(2) sub-section (3) shall be omitted.

Repeal and
savings.

3. The Provincial Small Cause Courts (Punjab Amendment) Act, 1966 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

3 of 1966
31 of 1966

Simla-2, the 18th February, 1970

No. 6-40/69-LR.—The Himachal Pradesh (Extension of Laws) Bill, 1969 (Bill No. 26 of 1969) after having received the assent of the President on the 13th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 5 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 5 of 1970

**THE HIMACHAL PRADESH (EXTENSION OF LAWS)
ACT, 1969**

AN

ACT

to provide for the extension of certain laws as applicable to, or in force in, the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966, to the areas as added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Extension of Laws) Act, 1969.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “official gazette” means Rajpatra, Himachal Pradesh;

(b) “old areas” means the areas as comprised in Himachal Pradesh immediately before 1st November, 1966;

(c) “schedule” means a schedule appended to this Act;

(d) “State Government” means the Administrator of Himachal Pradesh; and

(e) “transferred territories” means the territories which were added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

31 of 1966

3. All the enactments, as amended from time to time, specified in Schedule I, which are applicable to, or in force in the old areas and all rules, regulations, notifications, orders and bye-laws made, and all directions or instructions issued, thereunder, which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, the transferred territories.

Extension
of certain
laws to
transferred
territories.

4. In the enactments, or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued, thereunder, as referred to in section 3, any reference,—

Construc-
tion of cer-
tain refer-
ences.

(i) to the law which is not in force in the transferred territories shall

Act No. 5 of 1970

**THE HIMACHAL PRADESH (EXTENSION OF LAWS)
ACT, 1969**

AN

ACT

to provide for the extension of certain laws as applicable to, or in force in, the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966, to the areas as added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Extension of Laws) Act, 1969.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) “official gazette” means Rajpatra, Himachal Pradesh;
- (b) “old areas” means the areas as comprised in Himachal Pradesh immediately before 1st November, 1966;
- (c) “schedule” means a schedule appended to this Act;
- (d) “State Government” means the Administrator of Himachal Pradesh; and
- (e) “transferred territories” means the territories which were added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

3. All the enactments, as amended from time to time, specified in Schedule I, which are applicable to, or in force in the old areas and all rules, regulations, notifications, orders and bye-laws made, and all directions or instructions issued, thereunder, which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, the transferred territories.

Extension
of certain
laws to
transferred
territories.

4. In the enactments, or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued, thereunder, as referred to in section 3, any reference,—

Construc-
tion of cer-
tain refer-
ences.

- (i) to the law which is not in force in the transferred territories shall

- in relation to such territories, be construed as a reference to the corresponding law, if any, in force in such territories; and
- (ii) to the Union territory of Himachal Pradesh, by whatever form of words, shall be construed as including a reference to the transferred territories.

Repeal and savings.

5. If, immediately before the commencement of this Act, there is in force in the transferred territories any law corresponding to any of the enactments or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued, thereunder, extended to those territories, by section 3, that law including the enactments specified in Schedule II, shall, on the commencement of this Act, save as otherwise expressly provided in this Act, stand repealed:

Provided that such repeal shall not affect,—

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that anything done or any action taken under any law so repealed shall be deemed to have been done or taken under the corresponding provision of the enactment extended by section 3 to the transferred territories, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the enactment so extended.

Powers of courts and other authorities for purposes of facilitating the application of the enactments specified in Schedule I or rules, etc.

6. For the purposes of facilitating the application in the transferred territories of any enactment specified in Schedule I or of any rule, regulation, notification, order, bye-law, direction or instruction referred to in section 3, any court or other authority may construe the same with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Power to make rules, etc. not to be affected.

7. Nothing contained in this Act shall affect the power of the State Government or of any officer or authority, exercisable under the enactments specified in Schedule I, to add to, amend, vary or rescind the rules,

regulations, notifications, orders and bye-laws made, and directions or instructions issued, as extended by section 3 to the transferred territories.

8. If any difficulty arises in giving effect, in the transferred territories, to the provisions of any enactment specified in Schedule I, the State Government may, by order notified in the official gazette, make such provisions, or give such directions as appear to it to be necessary or expedient for the removal of the difficulty.

Power to
remove
difficulties.

SCHEDULE I

(See section 3)

Sl. No.	Year	Number of the Act	Name of the Act
1.	1955	6	The Himachal Pradesh Private Forests Act, 1954.
2.	1966	8	The Himachal Pradesh Khadi and Village Industries Board Act, 1966.

SCHEDULE II

(See section 5)

Sl. No.	Year	Number of the Act	Name of the Act
1.	1956	40	The Punjab Khadi and Village Industries Board Act, 1956.

Simla-2, the 18th February, 1970

No. 6-36/69-LR.—The Himachal Pradesh Backward Classes (Grant of Loans) Bill, 1969 (Bill No. 25 of 1969) after having received the assent of the President on the 28th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 6 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 6 of 1970

THE HIMACHAL PRADESH BACKWARD CLASSES (GRANT OF LOANS) ACT, 1969

AN

ACT

to provide for the extension of loan facilities to persons belonging to Backward Classes in the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (i) This Act may be called the Himachal Pradesh Backward Classes (Grant of Loans) Act, 1969.

Short title,
extent and
commence-
ment.

(ii) It extends to the whole of the Union territory of Himachal Pradesh.

(iii) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “backward classes” means the Scheduled Castes and the Scheduled Tribes declared as such in relation to the Union territory of Himachal Pradesh under articles 341 and 342 respectively of the Constitution and includes all persons each of whose annual gross income calculated in the prescribed manner does not exceed two thousand rupees;

(b) “borrower” means an individual belonging to a Backward Class to whom a loan has been granted under this Act;

(c) “controlling authority” means the authority appointed by the Government by notification in the Official Gazette to be competent to sanction a loan under the powers conferred by this Act and to take such steps as are necessary for the enforcement of the provisions of this Act;

(d) “government” means the Lieutenant Governor of Himachal Pradesh;

(e) “loan” means interest free loan granted by the Government under this Act;

(f) “prescribed” means prescribed by rules made under this Act.

3. The amount of loan which may be granted to an individual under this Act shall not exceed two thousand rupees.

Limit of
loan.

4. (1) Any person belonging to a backward class may submit to the controlling authority an application in the prescribed form, supported by an affidavit, stating the amount of loan desired by him, the purpose or purposes for which it is desired and the manner in which the repayment of the loan, if granted to him, is proposed to be made.

Procedure
for sanc-
tioning
loans.

(2) The controlling authority if satisfied that the applicant is a person belonging to a backward class, may sanction the loan to the extent of the amount stated in the application or any lesser amount, subject to a maximum of two thousand rupees in each case.

5. (1) When a loan is sanctioned under sub-section (2) of section 4, the applicant shall execute a bond in the prescribed form,—

Security for
repayment
of loans.

(a) undertaking to apply the amount of the loan to the purpose or

- purposes for which it has been sanctioned;
- (b) undertaking to fulfil the conditions on which the loan has been sanctioned; and
- (c) agreeing that the amount of the loan shall be recoverable in the prescribed manner if it is not used for such purpose or purposes or if there is any breach of such conditions.

(2) For the loan so sanctioned, the applicant shall furnish one surety and the person and property of the applicant as well as of the surety shall be liable for the repayment of the loan and costs, if any, incurred in granting or recovering the loan:

Provided that the controlling authority may, in any case, for reasons to be recorded in writing, exempt any applicant from furnishing a surety.

Loan how repayable.

6. The loan shall be repayable by the borrower in twenty half yearly equated instalments:

Provided that the repayment of instalments shall not commence before the expiry of four years from the date of payment of the loan.

Inspection and supply of information.

7. A borrower shall be bound,—

(a) to comply with any general or special order of the controlling authority relating to the inspection of the premises, buildings, machinery and stock in hand purchased or hired by the borrower with the aid of the loan granted to him; and

(b) to furnish any information which the controlling authority may require in respect of the purpose or purposes for which the loan was granted or of the manner in which the loan has been or is being utilised.

Consequence of failure by borrower to comply with provisions of section 7.

8. If any borrower fails without reasonable cause to comply with any order or to furnish any information as required by section 7, or if the controlling authority after inspection provided for in section 7, or otherwise is satisfied that the money lent is not being applied to the purpose or purposes for which it was lent or that any condition on which it was granted is not being duly fulfilled, the controlling authority may declare, notwithstanding anything contained in the bond executed by the borrower, that the loan shall be immediately recoverable and shall give notice of such declaration to the borrower.

Appeal.

9. Within six weeks of the receipt of the notice under section 8 the borrower may appeal against the declaration of the controlling authority under that section to the Government and the decision of the Government thereon shall be final.

Mode of recovery.

10. (1) When the loan or any instalment thereof falls due and is not paid on or before the due date, or when the loan has been declared immediately recoverable under section 8 and subject to the order made on appeal under section 9 the controlling authority may cause to be served on the borrower a notice calling upon him to pay the sum due within such time and to such officer as may be specified therein.

(2) In case of default in complying with a notice under sub-section (1) the sums specified in the notice including costs, if any, incurred by the Government may be realised as arrears of land revenue.

Finality of decision of Government.

11. The decision of the Government as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any civil court to set aside or modify any order made thereunder, nor shall the same be questioned by any

court of law in any proceedings whatsoever.

12. No prosecution, suit or other proceedings shall lie against the Government or any officer or authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

Legal proceedings.

13. (1) The Government may, by notification in the Official Gazette, make rules consistent with this Act for the carrying out of all or any of its purposes.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules regulating or determining all or any of the following matters, namely:—

- (a) the manner of calculating the annual gross income of a person for the purpose of grant of loans under this Act;
- (b) the forms of the applications to be made and deeds to be executed in respect of loans;
- (c) the mode in which payment of loans is to be made;
- (d) the forms of notices to be given or declarations to be made by the controlling authority; and
- (e) the purposes for which loans may be sanctioned under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17 of 1957 14. (1) The Punjab Backward Classes (Grant of Loans) Act, 1957
31 of 1966 in its application to the territories added to the Union territory of Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Repeal and savings.

Provided that such repeal shall not affect:—

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

(2) Any loan granted under the Act repealed by sub-section (1) shall be deemed to be a loan granted under this Act and the amount of such loan outstanding at the commencement of this Act shall be recovered under the provisions of this Act and the rules made thereunder.

Simla-2, the 24th February, 1970

No. 6-32/69-I.R.—The Himachal Pradesh Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Bill, 1969 (Bill No. 29 of 1969) after having received the assent of the President on the 28th January, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 7 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 7 of 1970.

THE HIMACHAL PRADESH INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS AND CASUAL AND SICK LEAVE) ACT, 1969

AN
ACT

to provide for the grant of national and festival holidays and casual and sick leave to persons employed in Industrial Establishments in Himachal Pradesh.

BE it enacted by the Himachal Pradesh Legislative Assembly in the Twentieth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Himachal Pradesh Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1969.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “day” means a period of twenty-four hours beginning at mid-night: Provided that in the case of a worker who works in a shift which extends beyond mid-night, such period of twenty-four hours shall begin when his shift ends;
- (b) “employer” in relation to an industrial establishment, means the person who has the ultimate control over the affairs of the industrial establishment, and where the affairs of any industrial establishment are entrusted to any other person, whether called a managing agent, manager, superintendent or by any other name, such other person shall be deemed to be the employer;
- (c) “Government” means the Administrator of the Union territory of Himachal Pradesh;
- (d) “industrial establishment” means—
 - (i) any factory as defined in clause (m) of section 2 of the Factories

63 of 1948

Act, 1948, or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act; or

69 of 1951

- (ii) any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;
- (e) "Inspector" means an Inspector appointed under sub-section (1) of section 7;
- (f) "notification" means a notification published under proper authority in the Official Gazette;
- (g) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include—
 - (a) any bonus;
 - (b) the value of any house accommodation, supply of light, water, medical facilities or other amenity or of any service or of any concessional supply of foodgrains or other articles;
 - (c) any contribution paid or payable by the employer—
 - (i) to any pension or provident fund, and the interest which may have accrued thereon; or
 - (ii) for the benefit of the worker under any law for the time being in force;
 - (d) any travelling allowance or the value of any travelling concession;
 - (e) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or
 - (f) any gratuity payable on the termination of employment; and
- (j) "worker" means—
 - (i) any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward whether the terms of employment be expressed or implied; or
 - (ii) any other person employed in any industrial establishment whom the Government may, by notification, declare to be a worker for the purpose of this Act.

3. (1) Every worker shall, in each year, be allowed in such manner, and on such conditions, as may be prescribed—

- (a) three national holidays of one whole day each on the 26th January, 15th August and 2nd October; and
- (b) four other holidays on any of the festivals specified in the Schedule out of which one shall be Himachal Day:

Provided that for purposes of clause (b), where at least ten per centum of the workers of an industrial establishment so desire, they may, in lieu of any festival holiday, avail of two half holidays on any of the festival days

National
and Festival
Holidays.

of their choice specified in the Schedule after settlement in this behalf has been made between the employer and the representatives of the workers in such manner as may be prescribed.

(2) The Government may, by notification, add to or omit from the Schedule any festival, and thereupon the Schedule shall be deemed to be amended accordingly.

Casual and sick leave.

4. Every worker shall in each year, be allowed by the employer casual leave for seven days and sick leave for fourteen days in such manner, and on such conditions (including a condition to the effect that one kind of leave shall not be linked with another kind of leave, whether due under this Act, or under any other law for the time being in force), as may be prescribed.

Wages.

5. (1) Notwithstanding any contract to the contrary, every worker shall for each of the national and festival holidays and of the days of casual or sick leave, be paid by the employer wages at a rate equivalent to his average daily wage:

Provided that—

(a) no worker shall be entitled to be paid such wages for any holiday or leave, other than a national holiday, if his name was not on the rolls of the industrial establishment continuously for a period of one month immediately preceding such holiday or leave;

(b) where a worker is entitled to sickness benefit under the Employees' State Insurance Act, 1948 or sickness allowance under the Plantation Labour Act, 1951, he shall not be entitled to be paid such wages for the days of sick leave allowed to him under this Act; and

(c) where a worker is not entitled to such sickness benefit or sickness allowance, he shall be paid wages for the days of sick leave allowed to him under this Act at a rate equivalent to one-half of his average daily wage.

(2) Where a worker works on any holiday allowed under section 3, he shall, at his option, be entitled to—

(a) twice his average daily wage for that day, or

(b) his average daily wage for that day and a substituted holiday with his average daily wage on any other day within ninety days from the day on which he so works.

Explanation.—For the purposes of this section, the average daily wage of a worker shall be computed on the basis of his total full-time wages during the preceding three months, exclusive of any overtime wages, if any:

Provided that the average daily wage of a worker who is paid wages by the day or at piece rate shall be computed on the basis of his wages for the days on which he actually worked during the month immediately preceding such holiday or leave.

Account of holidays and leave to be kept.

6. Every employer shall keep, in such form and manner as may be prescribed, an account of festival holidays, casual leave and sick leave of every worker and every worker shall have access to such account.

Inspectors.

7. (1) The Government may, by notification, appoint such persons or class of persons as it may think fit to be Inspectors for carrying out the purposes of this Act for such areas as may be specified in the notification.

34 of 1948
69 of 1951

45 of 1860

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

8. Subject to any rules made by the Government in this behalf, an Inspector may, within the area for which he is appointed—

Powers of Inspectors.

- (a) enter at all reasonable times any place which is, or which he has reason to believe to be, an industrial establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise the evidence of such person as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

9. Any employer who contravenes any of the provisions of section 3, section 4, section 5 or section 6 shall be punishable, for the first offence, with fine which may extend to one hundred rupees and for a second or subsequent offences, with fine which may extend to two hundred and fifty rupees.

Penalties.

10. (1) Where a Magistrate while convicting an employer under section 9 is satisfied that the worker has not been paid his due wages under this Act, the amount of which shall be determined by the Magistrate, he shall direct the employer to pay such wages to the worker.

Power to recover wages.

(2) The amount of wages determined under sub-section (1) shall, for the purposes of recovery be deemed to be a fine imposed under this Act, in addition to the penalty imposed under section 9 and shall be realised as such.

11. Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or intentionally omits to produce on demand in writing by an Inspector any register, record or notice in his custody which may be required to be kept in pursuance of this Act or of any rule made thereunder shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for obstructing Inspector.

12. (1) No Court shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint in writing by an aggrieved person or an Inspector.

Cognizance of offences.

(2) No Court below that of a Magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder.

13. (1) Nothing contained in this Act shall apply to—

Exemptions.

- (a) any worker drawing wages exceeding five hundred rupees per mensem and employed mainly in a managerial, administrative or supervisory capacity;
- (b) any worker employed in an industrial establishment under the control of the Government or Central Government or any State Government to whom the Civil Service Rules or any other similar rules or regulations notified in this behalf by the Government,

Central Government or any State Government as the case may be, apply; and

(c) any worker employed in any mine or an oil field.

(2) The Government may, in public interest by notification, exempt either permanently or for a specified period any class of industrial establishments from all or any of the provisions of this Act subject to such conditions as the Government may deem fit.

Rights and
privileges
under other
laws etc.
not affected.

14. Nothing contained in this Act shall affect any rights or privileges which any worker is entitled to receive under any other law, contract, custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Powers to
make rules.

15. (1) The Government may, by notification and after previous publication, make rules for the purpose of carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which, and the conditions on which, national and other holidays shall be allowed to workers under section 3;

(b) the number of days for which, the manner in which, and the conditions on which, casual and sick leave shall be allowed to workers under section 4;

(c) the form in which and the manner in which an account of festival holidays, casual leave and sick leave of workers, shall be maintained by employers under section 6; and

(d) any other matter which is to be or may be provided.

(3) In making a rule under this section, the Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) Every rule made under this section, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and
saving.

16. (1) The Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965 as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed.

14 of 1965

(2) The repeal of the Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965 by sub-section (1) shall not affect—

31 of 1966

14 of 1965

(a) the previous operation of that Act or anything duly done or suffered thereunder;

(b) any penalty or punishment incurred in respect of any offence committed against that Act; or

(c) any investigation, legal proceeding or remedy in respect of any such penalty or punishment and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed as if that Act has not been repealed.

(3) Subject to the provisions contained in sub-section (2), anything done or any action taken, including any appointment, order, notification or notice made, issued or given under the provision of the Act repealed by sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 3 (1) (b)]

New Year's Day.
Basant Panchmi.
Guru Ravi Dass's Birthday.
Shivratri.
Holi.
Id-ul-Fiter.
Ram Naumi.
Lord Mahavira's Birthdav
Good Friday.
Baisakhi.
Himachal Day.
Id-ul-Zuha.
Muharram.
Solan Fair.
Milad-un-Nabi.
Janam Ashtmi.
Bawan Dwadshi Fair (Nahan).
Raksha Bandhan.
Minjar Fair (Chamba).
Dussehra.
Maharishi Balmiki's Birthday.
Lavi Fair (Rampur).
Diwali.
Lala Lajpat Rai's Death Anniversary
Guru Nanak's Birthday.
Lohri.
Guru Gobind Singh's Birthday.
Vishwa Karma Jainti.
Christmas Day.
May Day.

